

IC 3-11-7

Chapter 7. Approval of Ballot Card Voting Systems

IC 3-11-7-1

Necessity of approval

Sec. 1. (a) The commission must approve a ballot card voting system before it may be used in an election.

(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.235; P.L.2-1996, SEC.161; P.L.239-2001, SEC.8.

IC 3-11-7-2

Approval of system by commission

Sec. 2. The commission may approve a ballot card voting system only if the commission determines that the system meets the standards in this chapter and IC 3-11-15.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.236; P.L.2-1996, SEC.162; P.L.176-1999, SEC.68.

IC 3-11-7-3

Capability of system; voting in secrecy

Sec. 3. A ballot card voting system must enable a voter to cast a vote in secrecy for all offices and public questions for which the voter is entitled to vote.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.237.

IC 3-11-7-3.5

Face of ballot card

Sec. 3.5. A ballot card printed for use under this article must have the year of the election to be conducted printed or stamped on the face of the ballot card.

As added by P.L.176-1999, SEC.69.

IC 3-11-7-4

Capability of system; voting straight or split ticket variations

Sec. 4. A ballot card voting system must permit a voter to vote either:

- (1) a straight party ticket for all of the candidates of a political party by a single mark or punch on each ballot card;
- (2) a split ticket for the candidates of different political parties and for independent candidates; or
- (3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.238; P.L.3-1993, SEC.131.

IC 3-11-7-5

Requisites of systems

Sec. 5. A ballot card voting system must be:

- (1) suitably designed for the purpose used;
- (2) of durable construction;
- (3) safe, efficient, and accurate in the conduct of elections and counting of ballots; and
- (4) in compliance with the standards for systems that are purchased after the effective date of the standards established under this chapter and IC 3-11-15.

As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.19; P.L.3-1987, SEC.239; P.L.4-1991, SEC.74; P.L.2-1996, SEC.163; P.L.176-1999, SEC.70.

IC 3-11-7-6

Counting of vote; voting straight or split ticket variations

Sec. 6. If a voter votes a straight party ticket and also votes for one (1) or more individual candidates who are all of the same political party as the straight ticket vote, a ballot card voting system must count the straight ticket vote and not the individual candidate votes as required by IC 3-12-1-7(a).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.240; P.L.3-1993, SEC.132.

IC 3-11-7-7

Counting of vote; vote for office on ballot

Sec. 7. (a) A ballot card voting system must count the vote for an office on a ballot in accordance with IC 3-12-1-7(b) and this section whenever:

- (1) a voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) only one (1) person may be elected to an office; and
- (3) the voter has voted for one (1) or more individual candidates for the office described in subdivision (2) who are in a political party other than the party for which the voter voted a straight ticket.

(b) If the voter has voted for one (1) individual candidate for the office described in subsection (a)(2), the individual candidate vote for that office must be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted.

(c) If the voter has voted for more than one (1) individual candidate for the office described in subsection (a)(2), the individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot must be counted.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.241; P.L.3-1993, SEC.133.

IC 3-11-7-8

Counting of vote; office to which more than one person can be elected

Sec. 8. If there is an office to which more than one (1) person can be elected, and a voter votes a straight party ticket and then votes both for individual candidates in the same political party as the straight ticket vote and in a different party for that office, or votes for only individuals in a different party for that office, a ballot card voting system must in accordance with IC 3-12-1-7(c) count the individual candidate votes and not the straight ticket votes for that office. However, if the number of individual candidate votes for that office exceeds the number of openings for that office, the system must not count any of the votes concerning that office.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.242; P.L.3-1993, SEC.134.

IC 3-11-7-9

Counting vote; void ballot

Sec. 9. If a voter votes a straight party ticket for more than one (1) political party, a ballot card voting system must consider the whole ballot void except for the voter's vote for a school board candidate or on a public question in accordance with IC 3-12-1-7(d).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.243; P.L.3-1993, SEC.135; P.L.38-1999, SEC.41.

IC 3-11-7-10

Counting of vote; use of system when number of votes cast by voter for office is less than or equal to number of openings for that office

Sec. 10. If a voter does not vote a straight party ticket and the number of votes cast by the voter for the candidates for an office is less than or equal to the number of openings for that office, a ballot card voting system must count the individual candidates' votes in accordance with IC 3-12-1-7(e).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.244; P.L.3-1993, SEC.136.

IC 3-11-7-11

Counting of vote; system not used when number of votes cast by voter for an office exceeds number of openings

Sec. 11. If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, a ballot card voting system must not count any of the votes concerning that office in accordance with IC 3-12-1-7(f).

As added by P.L.5-1986, SEC.7. Amended by P.L.5-1988, SEC.7; P.L.3-1993, SEC.137.

IC 3-11-7-11.5

Ballot card voting system; write-in vote count capacity

Sec. 11.5. A ballot card voting system must permit the counting of write-in votes in accordance with IC 3-12-1-7.5.

As added by P.L.3-1993, SEC.138.

IC 3-11-7-12

Suitability tests to be conducted before approving system

Sec. 12. The commission shall have tests conducted concerning the suitability of a ballot card voting system before determining whether to approve the ballot card voting system.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.245; P.L.2-1996, SEC.164.

IC 3-11-7-13 Repealed

(Repealed by P.L.176-1999, SEC.134.)

IC 3-11-7-14

Supplementary instructions and procedures for safe and efficient use of system; issuance

Sec. 14. The commission may issue supplementary instructions and procedures for the safe and efficient use of ballot card voting systems to carry out this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.247; P.L.2-1996, SEC.166.

IC 3-11-7-15

Proposed improvements or changes; reports; determination of effectiveness; approval and implementation

Sec. 15. (a) A proposed improvement or change to a ballot card voting system shall be reported to the election division by:

- (1) the vendor, if a vendor is involved in the proposed change; and
- (2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.

(d) After the commission has approved an improvement or change, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.248; P.L.4-1991, SEC.75; P.L.2-1996, SEC.167; P.L.3-1997, SEC.286; P.L.14-2004, SEC.108.

IC 3-11-7-16

Disapproval of system

Sec. 16. The commission may not approve the sale of a ballot card voting system by a vendor if the commission finds that the system fails to meet all statutory requirements.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.249; P.L.5-1988, SEC.8; P.L.4-1991, SEC.76; P.L.2-1996, SEC.168; P.L.176-1999, SEC.71.

IC 3-11-7-17

Examining previously approved systems; rescission of approval; recommendation to discontinue or prohibit use; ballot card voting systems

Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine a ballot card voting system that the commission has previously approved to determine if the system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may, by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

As added by P.L.4-1991, SEC.77. Amended by P.L.3-1993, SEC.139; P.L.2-1996, SEC.169; P.L.2-1997, SEC.9; P.L.3-1997, SEC.287; P.L.176-1999, SEC.72; P.L.126-2002, SEC.57; P.L.14-2004, SEC.109.

IC 3-11-7-18

Filing of contracts, leases, or purchase orders; advising county

officials as to contents

Sec. 18. (a) The commission may require a county executive to file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The election division may advise or instruct county officials on the content of the documents listed in subsection (a).

As added by P.L.4-1991, SEC.78. Amended by P.L.2-1996, SEC.170; P.L.3-1997, SEC.288.

IC 3-11-7-19

Ballot card voting system; expiration, renewal, and revocation of approval

Sec. 19. (a) Except as provided in subsection (g), the approval of a ballot card voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana;
or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor

certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

As added by P.L.3-1993, SEC.140. Amended by P.L.2-1996, SEC.171; P.L.3-1997, SEC.289; P.L.14-2004, SEC.110.